

Commonwealth of Kentucky Department of Workers' Claims

Prevention Park 657 Chamberlin Avenue Frankfort, Kentucky 40601 (502) 564-5550

Web site: http://www.labor.ky.gov/workersclaims

COMMISSIONER
Dwight T. Lovan

WORKERS' COMPENSATION BOARD (859) 246-2773

ADMINISTRATIVE LAW JUDGES
Donna H. Terry
Chief Administrative Law Judge
(502) 564-5550

In addition to the Frankfort Office, DWC specialists and ombudsmen may be contacted at the following offices for information and assistance regarding workers' compensation issues:

Toll free 800-554-8601

410 West Chestnut Street, Suite 700 **Louisville, Kentucky 40202** Telephone 502-595-4850 Fax 502-595-4146 Toll Free (866) 874-0006

107 Coal Hollow Road, Suite 100 **Pikeville, Kentucky 41501** Telephone 606-433-7661 Fax 606-433-7798 Toll free (800) 554-8602

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Kentucky Department of Workers' Claims



Mission Statement:

Resourceful administration of Kentucky's workers' compensation program with equitable and expedient processing of claims

Performance Objectives:

- Assure prompt delivery of statutory benefits, including medical services and indemnity payments
- Provide timely and competent services to stakeholders
- Foster stakeholder knowledge of rights and responsibilities under the Workers' Compensation Act
- Encourage stakeholder involvement in the development of policy and delivery mechanisms
- Provide the public and policy makers with accurate and current indicators of program performance
- Anticipate changes in the program environment and respond appropriately

No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Labor Cabinet.

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This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provisional services.



Steven L. Beshear Governor

Daniel Mongiardo Lieutenant Governor

KENTUCKY LABOR CABINET Department of Workers' Claims

657 Chamberlin Avenue Frankfort, KY 40601 Telephone: (502) 564-5550 www.labor.ky.gov/workersclaims J. R. Gray Secretary

Mark S. Brown Deputy Secretary

Dwight T. Lovan Commissioner

November 3, 2008

Honorable Steve Beshear Governor Capitol Building 700 Capitol Avenue, Suite 100 Frankfort, Kentucky 40601

Dear Governor Beshear:

On behalf of the Department, I am pleased to submit to you the Department of Workers' Claims (DWC) 2007-2008 Annual Report as directed by KRS 342.230 and KRS 342.435. This annual report emphasizes the procedures used by the DWC to assure prompt delivery of statutory benefits to the constituents of the Commonwealth of Kentucky.

We work diligently in stressing the importance of a safe and knowledgeable workforce for the citizens of Kentucky while collaborating with business, labor, and the health and insurance communities on mechanisms to enhance the workers' compensation system. These efforts are designed to ensure the delivery of quality services in a timely manner.

The DWC is utilizing new technology and information systems to build a better communication network. The advancements at this department are attributable to dedicated employees concerned with the best interests of the workers and employers of the State of Kentucky. Thank you for your keen interest and support for the Department of Workers' Claims during this fiscal year.

Sincerely.

Dwight T. Lovan, Commissioner Department of Workers' Claims



An Equal Opportunity Employer M/F/D



Dwight T. Lovan Commissioner

Commissioner Dwight T. Lovan received his Bachelor's degree from Baylor University and J.D. from the University of Kentucky College of Law. Admitted to the Kentucky Bar in 1977, Commissioner Lovan worked as a staff attorney for the Kentucky Court of Appeals with responsibility for workers' compensation appeals for 15 months. From 1979 to 1990 he practiced law in Owensboro, concentrating in the areas of workers' compensation and civil litigation.

In May of 1990, Commissioner Lovan was appointed Administrative Law Judge and remained in that position until August of 1994 when he was named to the Kentucky Workers' Compensation Board. Between July 2000 and January 2004, Commissioner Lovan served as Chairman of the Kentucky Workers' Compensation Board before returning to private practice in the firm of Jones, Walters, Turner and Shelton.

By executive order signed on February 7, 2008, Mr. Lovan was appointed to serve as the Commissioner of the Department of Workers' Claims.



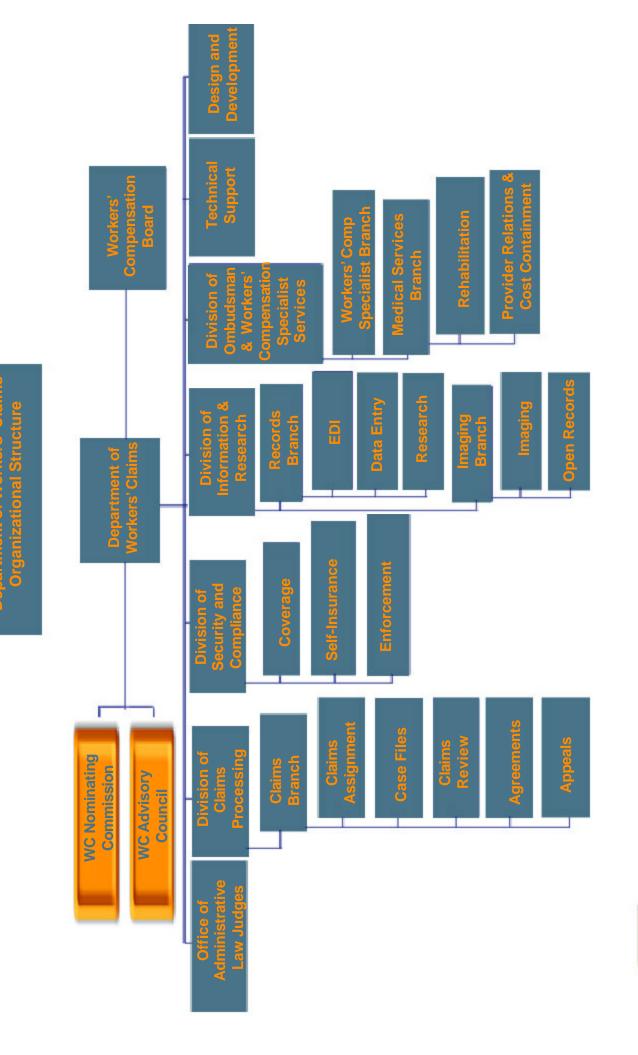
Philip A. Harmon Deputy Commissioner

Philip A. Harmon joined the Department of Workers' Claims on November 8, 2004 as director of Security & Compliance. He was named deputy executive director on February 16, 2006. He assumed the role of deputy commissioner on June 16, 2008 with the reorganization of the Department.

After graduating from high school in Huntington, West Virginia, Mr. Harmon served over 4½ years with the U.S. Air Force before returning to Huntington and graduating from Marshall University in 1968. He retired from Ashland Inc. with 34 years of service in their Risk & Insurance Management Department. He joined the DWC from his position as president of The Good Samaritan Foundation.

While with Ashland, Mr. Harmon was an associate member of the International Association of Industrial Accident Boards and Commissions and the Southern Association of Workers' Compensation Administrators. He was also a member of the Risk & Insurance Management Society and the National Council of Self-Insurers.

Mr. Harmon resides in Lexington with his bride of 44 years, Connie. They have two adult sons and two grandchildren.



Attached for Administrative Purposes Only



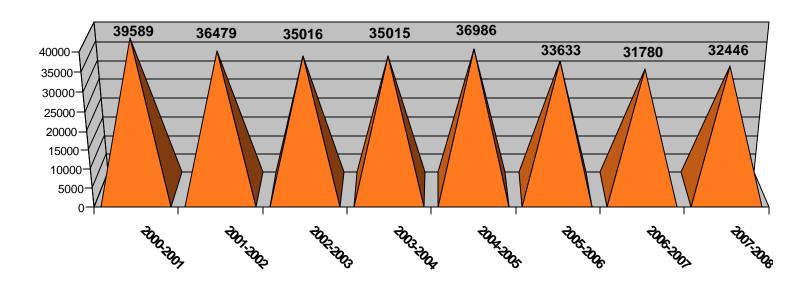
First Reports of Injury

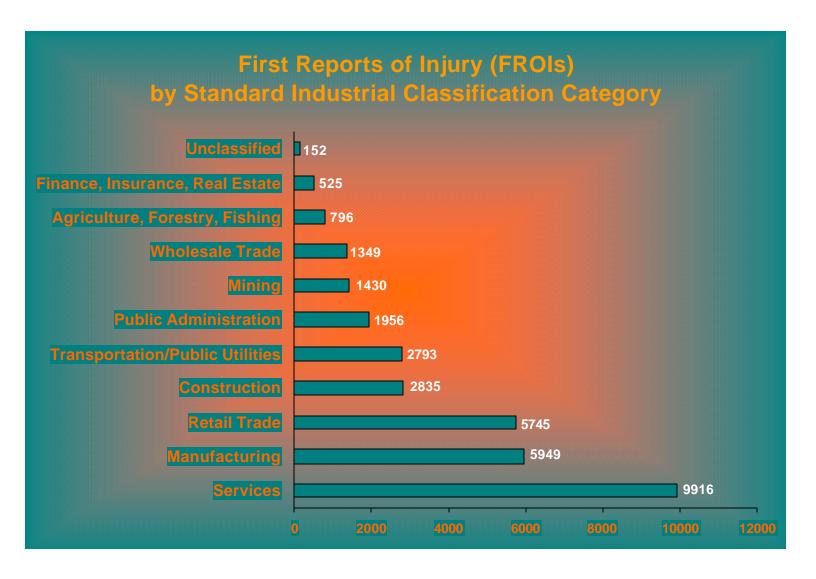
Kentucky Revised Statute 342.038 mandates that employers keep a record of all employee workplace injuries or fatalities. Upon employee notification, when more than one day of work is lost, the employer has three days to inform its workers' compensation insurance carrier or third party administrator. These entities then have one week after notification of the injury or fatality to file a First Report of Injury with the Department of Workers' Claims. Failure to comply with this reporting requirement may result in penalties pursuant to KRS 342.990.

In fiscal year 2007-2008, there were 32,446 lost time First Reports of Injury filed with the Department of Workers' Claims. Of these first reports, 41 percent were filed timely and 32 percent were subject to penalties.

The three most common causes of work-related injuries reported in fiscal year 2007-2008 were lifting (4,429), strain or injury by, NOC (2,929), and falls, slips, trips NOC (2,543).

First Reports of Injury by Fiscal Year





Review of the nature of injuries revealed that strains (11,239) and contusions (3,655) accounted for 46 percent of all reported injuries. There were 2,475 fractures and 2,242 lacerations reported. Sprains were reported in 2,195 of the injuries received by the Department of Workers' Claims.

Of the information that was reported to the Department of Workers' Claims, the low back area (including lumbar and lumbosacral) had the highest number of injuries (5,017). The second most commonly injured area was multiple body parts (3,856) and third was injuries to the knee (2,889). This closely mimics the lost time reports of the previous fiscal year.

FROIs by Nature Typ	e
Coal Workers' Pneumoconiosis (CWP)	104
Hearing Loss	121
Injury	31,242
Other Occupational Disease	979

Program Statistics

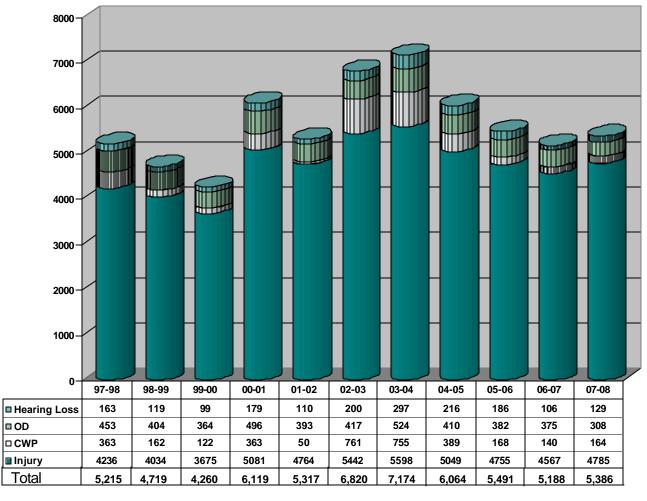
Workers' Compensation Claims

A workers' compensation claim in Kentucky originates when one of two things happens. A settlement document is filed to voluntarily resolve workers' compensation issues between parties; or a claim application is filed because the parties are not in agreement and the matter must be resolved by an Administrative Law Judge.

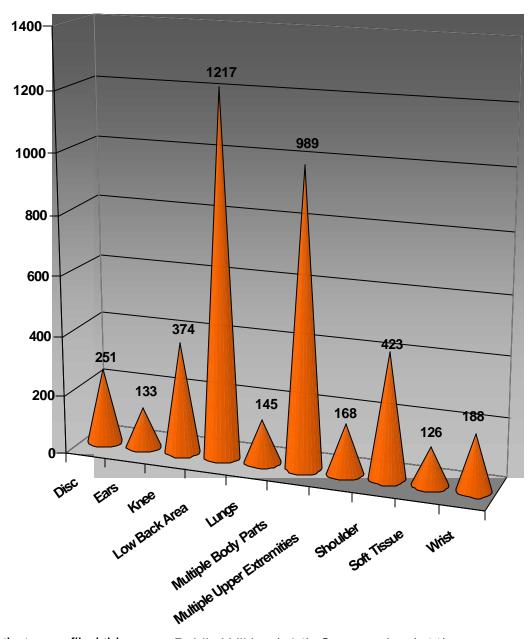
Workers' compensation claims are typically divided into two types; indemnity and medical-only. Indemnity claims are those for which income benefits are paid to compensate for lost wages, functional impairment or death. Medical service costs are paid in addition to income payments.

Most of the data in this report pertains to indemnity claims. For an injury to be compensable, it must be a direct result of the employee's work. To be considered for temporary total income benefits, an injured worker must miss more than seven days of work. Medical-only claims are those where medical services are delivered but the employee does not qualify for income benefits.

In fiscal year 2007-2008, there were 5,386 applications for resolution of claims filed with the Department of Workers' Claims.



Distribution of Claims by Body Part Top Ten



Of the 5,386 claims that were filed this fiscal year, 1,781 claims were filed by females (33%) and 3,583 were filed by males (67%). There were 22 claims with no gender specified (less than 1%). The average age of those who filed claims with the DWC was 42 years.

The Standard Industrial Classification (SIC) category with the greatest number of claims filed was Services (1,182).

Manufacturing was a close second with 1,160. The remaining SIC categories had the following number of claims: Mining (832), Retail Trade (599), Transportation/

Public Utilities (524), Construction (511), Public Administration (205), Wholesale Trade (195), Unclassified (67), Agriculture, Forestry, Fishing (61), and Finance, Insurance, Real Estate (50).

In reviewing litigated injury claims, the three most common causes of injury during this reporting period were lifting (887), strains (459) and repetitive motion (357).

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 07-08

			% of FROIs to		% of Claims to
County	Total Labor Force	FROIs	Labor Force	Claims	FROIs
Adair	8,962	76	0.84%	9	11.8%
Allen	8,359	67	0.80%	15	22.4%
Anderson	11,029	94	.85%	12	12.8%
Ballard	4,203	28	0.67%	4	14.3%
Barren	19,627	279	1.42%	32	11.5%
Bath	5,170	38	0.74%	6	15.8%
Bell	9,580	223	2.3%	73	32.7%
Boone	61,346	989	1.6%	103	10.4%
Bourbon	9,955	234	2.4%	16	6.8%
Boyd	23,207	446	1.9%	93	20.9%
Boyle	12,741	257	2.0%	39	15.2%
Bracken	4,379	22	0.5%	5	22.7%
Breathitt	5,501	71	1.3%	17	23.9%
Breckinridge	9,205	128	1.4%	5	3.9%
Bullitt	39,067	303	0.78%	36	11.9%
Butler	5,678	37	0.65%	7	18.9%
Caldwell	6,683	70	1.0%	11	15.7%
Calloway	17,848	205	1.1%	27	13.2%
Campbell	45,139	346	0.77%	44	12.7%
Carlisle	2,297	21	0.91%	0	0
Carroll	5,867	120	2.0%	19	15.8%
Carter	13,654	118	0.86%	20	16.9%
Casey	7,385	82	1.1%	10	12.2%
Christian	26,581	508	1.9%	57	11.2%
Clark	17,563	281	1.6%	56	19.9%
Clay	7,032	73	1.0%	23	31.5%
Clinton	4,666	57	1.2%	2	3.5%
Crittenden	3,972	26	0.65%	9	34.6%
Cumberland	3,011	25	0.83%	3	12.0%
Daviess	47,335	710	1.5%	79	11.1%
Edmonson	5,565	18	0.32%	1	5.6%
Elliott Estill	3,061 6,217	11 51	0.36%	1 11	9.1%
	150,216	2,721	1.8%	389	14.3%
Floring			†	10	
Fleming	6,555	81	1.2%		12.3%
Floyd	15,135	423	2.8%	141	33.3%
Franklin	25,430	764	3.0%	61	8.0%
Fulton	2,737	52	1.9%	6	11.5%
Gallatin	4,015	45	1.1%	3	6.7%
Garrard	7,707	53	0.69%	5	9.4%
Grant	12,616	115	0.91%	5	4.3%
Graves	15,997	146	0.91%	16	11.0%
Grayson	11,455	202	1.8%	15	7.4%
Green	5,720	34	0.59%	7	20.6%
Greenup	17,505	163	0.93%	16	9.8%
Hancock	4,225	50	1.2%	12	24.0%
Hardin	47,317	606	1.3%	63	10.4%

Program Statistics

A Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 07-08

County	Total Labor Force	FROIs	% of FROIs to	Claims	% of Claims to
			Labor Force		FROIs
Harlan	10,278	263	2.6%	126	47.9%
Harrison	9,272	93	1.0%	4	4.3%
Hart	8,165	71	0.86%	4	5.6%
Henderson	23,031	479	2.1%	36	7.5%
Henry	8,097	79	0.98%	8	10.1%
Hickman	2,053	17	0.83%	2	11.8%
Hopkins	23,567	423	1.8%	58	13.7%
Jackson	4,321	30	0.70%	10	33.3%
Jefferson	358,257	6,369	1.8%	1,010	15.9%
Jessamine	23,006	306	1.3%	48	15.7%
Johnson	9,806	147	1.5%	45	30.6%
Kenton	83,836	936	1.1%	106	11.3%
Knott	6,230	193	3.1%	96	49.7%
Knox	12,660	122	0.96%	31	25.4%
Larue	7,054	49	0.69%	7	14.3%
Laurel	26,699	411	1.5%	103	25.1%
Lawrence	5,799	114	2.0%	24	21.1%
Lee	2,821	39	1.4%	11	28.2%
Leslie	3,611	73	2.0%	25	34.2%
Letcher	8,796	193	2.2%	84	43.5%
Lewis	5,708	40	0.70%	8	20.%
Lincoln	10,787	67	0.62%	9	13.4%
Livingston	4,953	78	1.6%	7	9.0%
Logan	12,476	138	1.1%	14	10.1%
Lyon	3,330	58	1.7%	8	13.8%
Madison	42,450	591	1.4%	85	14.4%
Magoffin	4,423	87	2.0%	30	34.5%
Marion	10,387	210	2.0%	25	11.9%
Marshall	14,930	157	1.1%	27	17.2%
Martin	3,466	131	3.8%	77	58.8%
Mason	8,870	111	1.3%	17	15.3%
McCracken	31,635	470	1.5%	84	17.9%
McCreary	5,857	74	1.3%	13	17.6%
McLean	4,674	21	0.45%	3	14.3%
Meade	12,160	66	0.54%	5	7.6%
Menifee	2,683	15	0.56%	2	13.3%
Mercer	10,780	132	1.2%	22	16.7%
Metcalfe	4,532	34	0.75%	4	11.8%
Monroe	4,865	68	1.4%	5	7.4%
Montgomery	12,207	215	1.8%	42	19.5%
Morgan	5,038	68	1.3%	15	22.1%
Muhlenberg	13,456	181	1.3%	16	8.9%
Nelson	21,506	248	1.2%	53	21.4%
Nicholas	3,024	54	1.8%	1	1.9%
Ohio	12,053	163	1.4%	25	15.3%

Program Statistics

A Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 07-08

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Oldham	27,645	196	0.71%	33	16.8%
Owen	5,331	34	0.64%	5	14.7%
Owsley	1,585	15	0.95%	4	26.7%
Pendleton	7,604	30	0.39%	5	16.7%
Perry	11,515	377	3.3%	114	30.2%
Pike	25,304	667	2.6%	335	50.2%
Powell	5,726	69	1.2%	4	5.8%
Pulaski	27,347	559	2.0%	95	17.0%
Robertson	1,056	5	0.47%	0	0
Rockcastle	7,488	120	1.6%	6	5.0%
Rowan	12,225	137	1.1%	22	16.1%
Russell	8,165	119	1.5%	14	11.8%
Scott	22,171	770	3.5%	101	13.1%
Shelby	21,197	258	1.2%	33	12.8%
Simpson	9,393	214	2.3%	21	9.8%
Spencer	8,865	34	0.38%	5	14.7%
Taylor	13,687	188	1.4%	22	11.7%
Todd	5,048	43	0.85%	4	9.3%
Trigg	6,762	50	0.74%	9	18.0%
Trimble	4,470	13	0.29%	1	7.7%
Union	7,160	134	1.9%	22	16.4%
Warren	58,082	888	1.5%	114	12.8%
Washington	5,473	98	1.8%	6	6.1%
Wayne	8,704	84	0.97%	13	15.5%
Webster	6,642	113	1.7%	17	15.0%
Whitley	15,195	412	2.7%	70	17.0%
Wolfe	2,341	31	1.3%	4	12.9%
Woodford	13,598	303	2.2%	32	10.6%
Out of State		1,070		209	
Unknown		116		37	
Grand Total	2,041,903	32,446	1.6%	5,386	16.6%

Workforce data provided by the Department of Workforce Investment. Agriculture is included in the total labor force numbers. Unknown numbers are due to insufficient reporting information.

Injuries to Minors

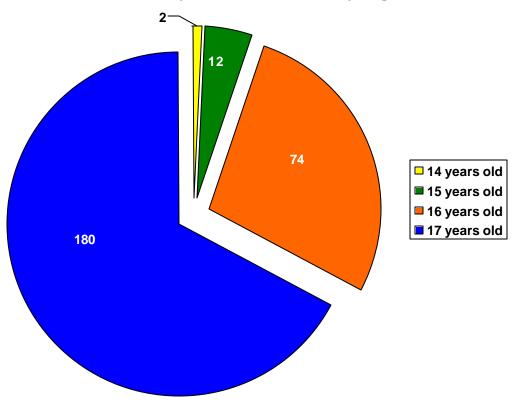
In fiscal year 2007-2008, there were 268 lost time injuries to workers under the age of 18 reported to the Department of Workers' Claims.

According to electronic data submitted to the department, there were two injuries reported for workers that were 14 years of age; 12 injuries reported for workers that were 15 years of age; 74 injuries reported for workers that were 16 years of age; and 180 injuries reported for workers that were 17 years of age.

Based on the standard industrial classification (SIC) codes represented on injuries to minors during this period, 165 injuries occurred in the retail trade sector and 43 injuries occurred in the services sector. Between these two categories, eating and drinking establishments accounted for 46% of all injuries to workers under the age of 18. The Transportation and Public Utilities sector reported 19 injuries; Agriculture, Forestry and Fishing sector reported 13 injuries; Construction sector reported nine injuries; the Manufacturing sector reported seven injuries; the Wholesale Trade sector reported five injuries; and those classified outside of these sectors two injuries.

The top three causes of injury to minors reported during this fiscal year were falls or slips (61), lifting (44) and burns by steam or hot fluids (34). Accordingly, the top three body parts most injured were fingers (27), hands (25), and knees and lower back area each were reported in 18 instances.

Distribution of Injuries to Minors by Age



rogram Statistics

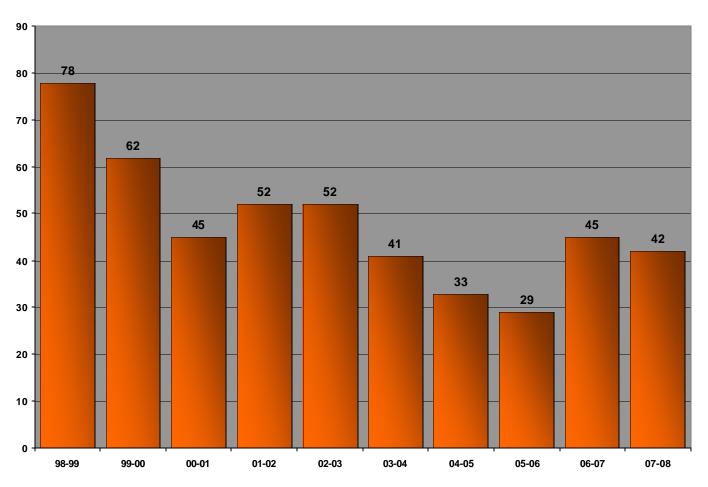
Work-Related Fatalities

There were 103 reports of workplace fatalities reported to the Department of Workers' Claims during this fiscal year. However, after investigation, only 42 of the deaths were determined to be work-related. The remaining have been ruled as not work-related (28), not a Kentucky claim (2), falling outside the reporting period (16) or containing issues which have the case in a pending status (14). Of the 103 reports, one was an error in reporting and was not a fatality.

The youngest of the casualties was a 17 year old male who was in a motor vehicle accident. An 83 year old male was the oldest worker who was also fatally injured in a motor vehicle accident. The most common causes of death this fiscal year were motor vehicles (20) and falls (8).

The fatalities reported to DWC included a variety of industries ranging from local trucking, roofing and sheet metal workers, excavating and foundation work and carpentering to commercial printing, hardware stores, highway and street construction and state commercial banks.

Distribution of Work-Related Fatalities



Fiscal Performance

All the funding for the Department of Workers' Claims comes from a special fund assessment imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, and against the simulated premium of every employer carrying its own risk. This is collected by the Workers' Compensation Funding Commission (KRS 342.122). These funds are restricted and no general fund dollars are appropriated for DWC operations.



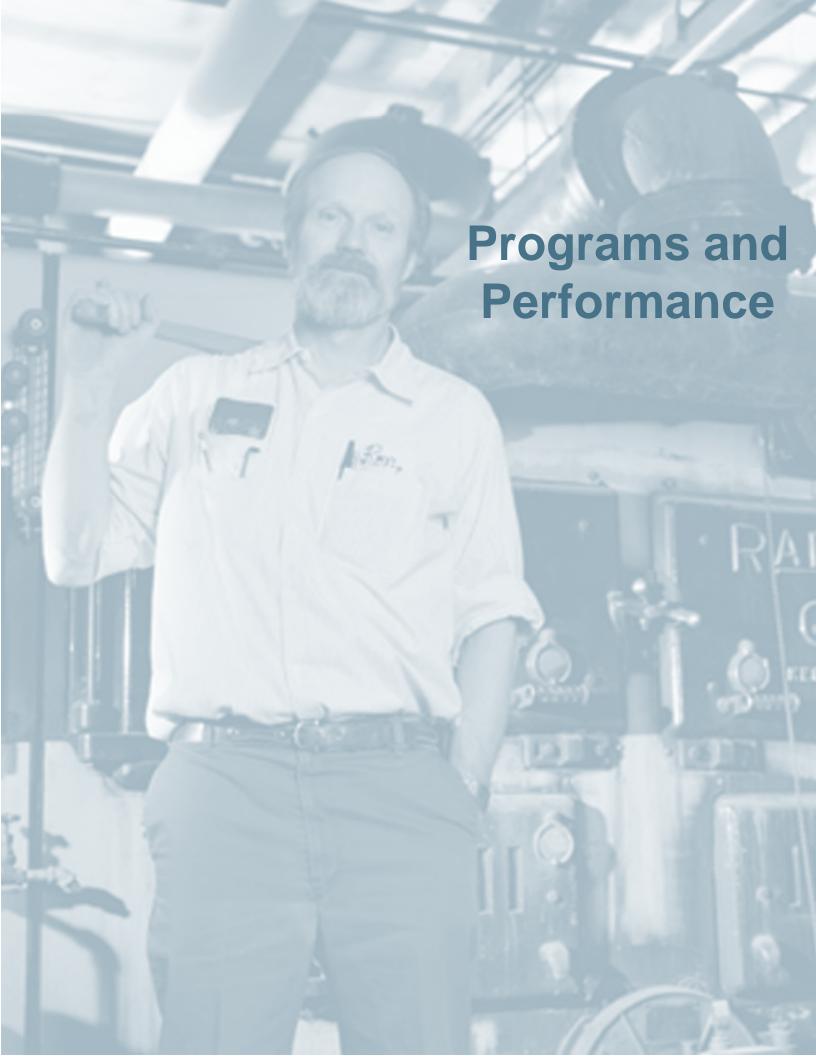
DWC PERSONNEL AD BUDGET HISTORY

FY 1992-93 through FY 2007-08

FISCAL YEAR	PERSONNEL CAP	PERSONNEL ACTUAL	BUDGET ALLOTMENT (\$)	ACTUAL EXPENDITURES (\$)	DIFFERENCE (\$)	PERCENT OF BUDGET EXPENDED
2007-2008	184	160	11,455,000	10,794,005	(660,995)	94.2%
2006-2007	184	167	10,211,700	9,840,070	(371,630)	96.4%
2005-2006	173	156	11,093,300	10,634,776	(458,524)	95.9%
2004-2005	173	163	9,498,700	9,182,865	(315,834)	%2'96
2003-2004	195	188	13,649,200	10,735,937	(2,913,263)	78.7%
2002-2003	242	201	16,397,700	13,384,935	(3,012,765)	81.6%
2001-2002	242	204	15,806,800	13,373,836	(2,432,963)	84.6%
2000-2001	242	208	14,942,300	12,716,927	(2,258,373)	85.1%
1999-2000	268	207	15,637,000	12,387,288	(3,249,712)	79.2%
1998-1999	268	208	14,994,000	12,606,188	(2,387,812)	84.1%
1997-1998	272	227	15,182,500	12,588,527	(2,593,973)	82.9%
1996-1997	272	229	12,137,900	11,057,391	(1,080,509)	91.0%
1995-1996	207	138	9,822,200	9,479,970	(342,230)	96.5%
1994-1995	210	120	9,757,200	8,586,716	(1,170,484)	88.0%
1993-1994	167	159	7,860,000	7,337,688	(522,312)	93.4%
1992-1993	167	160	7,505,100	7,004,561	(500,539)	93.0%

This does not include employees with the Workers' Compensation Board, which was attached to the Office of the Secretary; or General Counsel, which was attached to the Office of Legal Services.

of Workers' Claims: Effective March 16, 2007, the Technical Support Section and Design & Development Section were transferred laterally from the Department of Labor's Information and Technology Branch to the Department of Workers' Claims. As a result, the agency position Pursuant to EPPC Administrative Order #2007-003, the following changes were made within the Department of Labor and the Department allotment was increased by 11 positions from 173 to 184.



Office of Administrative Services

The Office of Administrative Services responsibilities include ensuring all financial transactions and personnel actions comply with applicable laws and regulations, are executed in a timely manner; and are properly documented and allocated to the appropriate program budget unit. Some of the functions Administrative Services perform include: managing and executing the annual budget and all contracts and leases; responding to all



requests for publications and forms; processing all incoming and outgoing mail; procuring supplies and equipment; maintaining infrastructure for 15 agency locations; coordinating DWC training; and providing daily assistance to all divisions of the Department of Workers' Claims. The following publications are made available by the DWC:

Medical Fee Schedule for Physicians Commissioner's Report on "B" Readers Workers' Compensation Posting Notice Life Expectancy Tables Rehabilitation Pamphlet Compliance Inspection Pamphlet List of "B" Readers for CWP Acute Low Back Pain Booklet Workers' Compensation Forms
Hospital Fee Schedule
Annual Report
Benefits Schedule
Quarterly Report
Present Worth Table
Workers' Compensation Guidebook

The following page contains forms that may be requested through Administrative Services or by accessing the Department of Workers' Claims Web site at http://www.labor.ky.gov/workersclaims. The only exception to this is the Form 4 which can only be obtained by contacting Administrative Services.

Forms

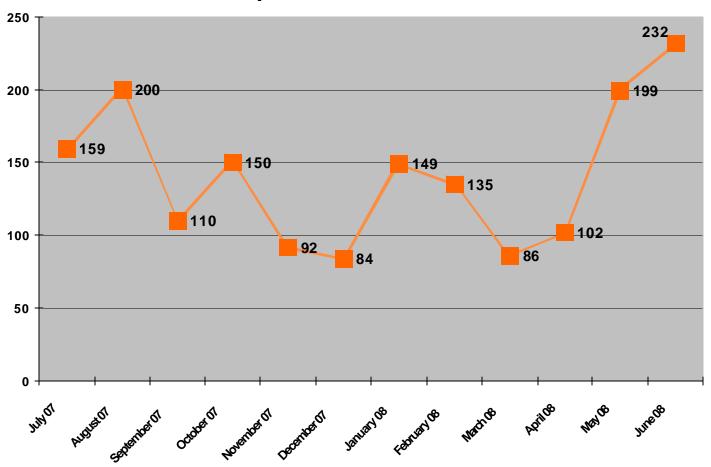
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Kentucky Workers' Compensation Act	Affide the final Contractor (declaring to applicate) which is filed
Notarized Affidavit of Exemption by Building	Affidavit of Building Contractor (declaring no employees) which is filed
Contractor (Corporate or Partnership) Kentucky Workers' Compensation Act	with local building permit office
Notarized Affidavit of Exemption by Building	Affidavit of Building Contractor (declaring no employees) which is filed
Contractor (Individual)	with local building permit office
Educational Release Form	Authorization for Release of Educational Information
Form IA-1	Workers' Compensation-First Report of Injury or Illness
Form IA-2	Workers' Compensation-Subsequent Report
Form Hearing Loss Stipulation	Workers' Compensation-Hearing Loss
Form Injury Stipulation	Workers' Compensation-Injury Stipulation
Form Occupational Disease Stipulation	Workers' Compensation-Occupational Disease Stipulation
Form 101	Application for Resolution of Injury Claim
Form 102	Application for Resolution of Occupational Disease Claim
Form 102-CWP	Application for Resolution of Coal Workers' Pneumoconiosis Claim
Form 103	Application for Resolution of Hearing Loss Claim
Form 104	Plaintiff's Employment History
Form 105	Plaintiff's Chronological Medical History
Form 106	Medical Waiver and Consent Form
Form 107-I Form 107-P	Physician's Medical Report-Injury Physician's Medical Report-Psychological
Form 108-CWP	Physician's Medical Report-Occupational Disease
Form 108-HL	Physician's Medical Report-Hearing Loss
Form 108-OD	
Form 109	Physician's Medical Report-Occupational Disease Attorney Fee Election
Form 109	
Form 440 CW/D	Agreement as to Compensation and Order Approving Settlement for
Form 110-CWP	Coal Workers' Pneumoconiosis
Form 110-F	Agreement as to Compensation and Order Approving Settlement-Fatality
Form 110-I	Agreement as to Compensation and Order Approving Settlement-Injury
E 440.0	Agreement as to Compensation and Order Approving Settlement-
Form 110-O	Occupational Disease
Form 111-I-HL	Notice of Claim Denial or Acceptance-Injury and Hearing Loss
Form 111-OD	Notice of Claim Denial or Acceptance-Occupational Disease
Form 112	Medical Dispute
Form 113	Notice of Designated Physician
Form 444	Request for Payment for Services or Reimbursement for Compensable
Form 114	Expenses
Form 115 Form 120 EX	Social Security Release Form
Form AWW-1	Request for expedited determination of medical issue Average Weekly Wage Certification
Form 150 Form 375	Workers' Compensation Statistical Report Application for Split Coverage
Form EL1 and EL2	Employee Leasing Company Registration Form
Form 375 Wrap-up	Application for Split Coverage (Wrap-up)
Form 11 Form MAO	Motion to Substitute Party and Continue Benefits Medical Fee Dispute and Mediation
Manual Change Form	Request for Manual Changes
Form SI-01 Form SI-02	Self-Insurers' Guarantee Agreement
Form SI-02 Form SI-02 Attachment	Self-Insurance Application Self-Insurance Application Attachment
Form SI-02 Attachment	Continuous Bond
Form SI 04	Surety Rider
Form SI-04 Form SI-08	Less Report
	Loss Report
Managed Care - UR Form	Managed Care - UR Form
Service Contract Agreement	Service Contract Agreement
Form MTR-1 Form MTR-2	Motion to Reopen by Employee
	Motion to Doopon KDS 242 722 Dopotito
Form MTR-3	Motion to Reopen KRS 342.732 Benefits Motion to Reopen by Defendant

Technical Support Section

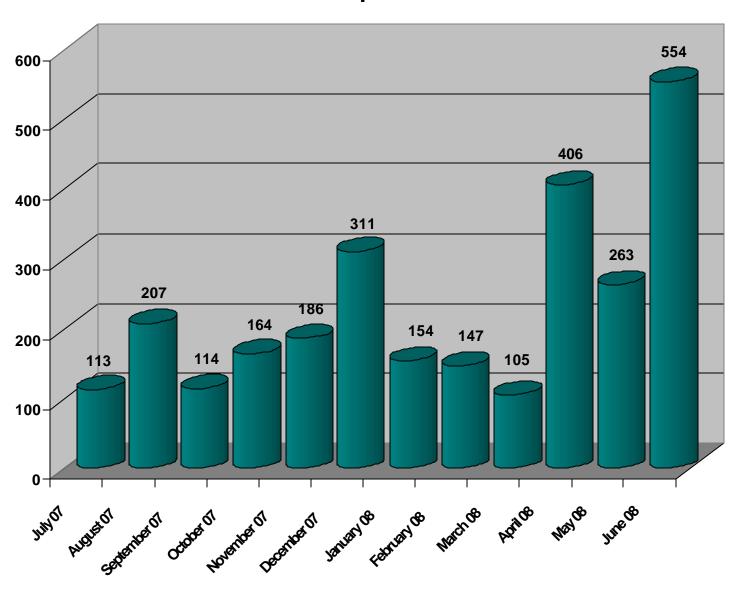
During this fiscal year, **Technical Support staff** migrated the entire agency to Active Directory which integrated DWC's network with the Labor and COT agencies including all users, applications, servers, equipment, and mailboxes. Staff performed many tasks ranging from loading software applications and security patches, setting up audio visual equipment, assisting with presentations, loading critical updates, and involving a variety of other technical issues. Technical Support staff researched and replaced equipment to enhance user productivity, coordinated equipment moves for various sections including fax machines, printers, field office networks, workstations, scanners, microfilm equipment, and telephone extensions. Technical Support consolidated servers by utilizing VMWare Virtual Server, thus saving the agency costly maintenance and equipment expenditures. Technical Support responded to 1698 helpdesk calls and 2724 issues or requests for assistance.

In addition to duties often associated with technical support, researching a variety of new equipment and products was necessary to ensure that DWC's technical needs are addressed. The following are examples of research topics reviewed during FY 2007-2008: tablet pcs, microfilm equipment, Voice Over Internet Protocol (VOIP), Nortel equipment, yearly maintenance, virtual servers, SAN/SUS servers, equipment replacement and Filenet upgrades.

Helpdesk Totals FY 07-08



Technical Support Distribution of Requests FY 2007-2008



Design and Development Section

The **Design and Development Section** consists of 6 staff members and meets the specific needs of the Department of Workers' Claims by actively developing, programming and maintaining in-house programs utilizing C#, .Net, Active Server Pages (ASP) and Structured Query Language (SQL). Design and Development maintains the Electronic Data Interchange (EDI) and Proof of Coverage (POC) programs and ensures these programs meet the International Association of Industrial Accident Boards & Commissions (IAIABC) standards with regards to submitting First Reports of Injury (FROI), Subsequent Reports of Injury (SROI) and POC data electronically from approved Trading Partners.



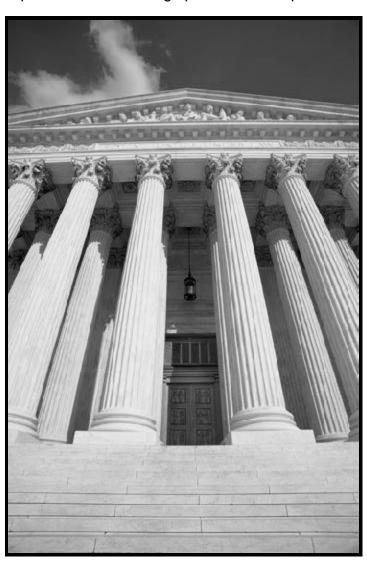
During this period, Design and Development staff applied new features to the Server Based System for Information Management and Business Applications (SIMBA), EDI, Reports and Rehab that would assist user's day to day functions. Section staff is in the process of redesigning SIMBA reports to HTML and creating new POC reports. The CompLaw program has been monitored and updated monthly. Of the 204 new test track issues that Design and Development received this fiscal year, 154 of them have been completed. There were a variety of tasks completed this period from modification of SIMBA and EDI form letters to creating new status codes, modification of agency letterhead, correcting 275 North American Industry Classification System (NAICS) codes, and assisting with form letters for the Chiropractic Peer Review Process in SIMBA.

Design and Development staff created a Proof of Coverage Implementation Guide that outlines the new POC 2.1 program requirements. They continue to work on POC 2.1 process and guidelines for development in line with IAIABC Standards 2.1. Section staff is testing the POC Importer, POC Programs and new screens for POC and SIMBA. Design and Development are currently working with vendors to test the new POC 2.1 program which went live in early September of this year. Also, KY EDI News - June 2008 edition was distributed via e-mail through the Communications Network to POC/EDI vendors and other parties notifying them of the POC 2.1 implementation.

In addition, staff switched over SIMBA, EDI and POC user id accounts to Active Directory during this fiscal year. They also created new filenet codes for the Self-Insurance Branch. Design and Development wrote a program to replace Formula One and continues to work on additional enhancements to the Electronic Data Interchange (EDI) applications, which is the primary way data is introduced into SIMBA from outside entities.

Office of General Counsel

The Office of General Counsel is responsible for providing legal support services to the Department of Workers' Claims in numerous legal capacities. The office advises the commissioner's office as to responsibilities with regard to personnel actions under KRS Chapter 18A, and defends the agency against any actions, personnel or otherwise, that are filed against the department. Additionally, the office has responsibility for promulgating regulations required of the department and drafting and reviewing legislation. The office provides assistance to the Enforcement Branch in ensuring compliance with workers' compensation laws for imposition of injunctions and fines against employers who neglect or refuse to provide workers' compensation coverage for their employees. In circumstances where an employee is injured and their employer has failed to provide insurance coverage, liens are filed against assets of uninsured employers pursuant to KRS 342.770. The office is responsible for reviewing open records requests in compliance with the state's open records



law. The office investigates unfair claims practices, and is responsible for issuing show cause orders and representing the department at hearings when it has been determined that an unfair claims practice has occurred.

During this past fiscal year, the Legal Services Division collected approximately \$1,046,261.70 in fines and penalties. The office received 821 citation cases, 111 unfair claims settlement practice cases and 6 new fraud cases. This office has filed restraining orders and collection actions in circuit court, held formal hearings and show cause hearings before administrative law judges and drafted agreed orders for settlements with regard to the above cases. The Office of General Counsel has also represented the agency, more specifically the Security and Compliance Division, in hearings, with regard to self-insurance audits, bankruptcy proceedings, and insurance company rehabilitation proceedings.

Administrative Law Judges

Administrative Law Judges

The Department of Workers' Claims has 19 Administrative Law Judge (ALJ) positions allocated, 16 of which are currently filled. Each ALJ is appointed by the Governor for a four year term from a list of three names submitted by the Workers' Compensation Nominating Commission. Each ALJ is subject to confirmation by the Kentucky State Senate. One of the ALJs is designated Chief Administrative Law Judge pursuant to KRS 342.230(8).

Chief Administrative Law Judge

Honorable Donna H. Terry, Chief Administrative Law Judge, is assigned to the Frankfort, Kentucky office. She conducts hearings in various enforcement actions. The Chief Administrative Law Judge (CALJ) also presides over the Frankfort motion docket and rules on approximately 3,200 motions in the course of a year. In addition, the CALJ rules on settlement agreements in unassigned cases and regularly conducts dockets for coal workers' pneumoconiosis (CWP) cases. The CALJ supervises ALJ activities, prepares a rotation schedule for the ALJs, plans two adjudicator training sessions annually, takes initial assignment of all CWP claims, and covers dockets for other ALJs on an emergency basis.



Honorable Donna H. Terry
B.A., 1970, University of Kentucky
J.D., 1972, University of Kentucky College of Law
Appointment date: April 15, l988
Chief ALJ 1994-1998
Chief ALJ June 23, 2008- present



Scott Borders
B.A., Business Administration, 1984,
University of Kentucky
J.D., 1987, Salmon P. Chase College of Law
Initial appointment date: December 7, 2001



John Coleman B.A., 1986, Morehead State University J.D., 1992, Salmon P. Chase College of Law Initial appointment date: January 1998



Caroline Pitt Clark
B.A., 1999, Centre College
J.D., 2002, University of Kentucky
College of Law
Initial appointment date: July 15, 2008



Chris Davis
B.A., 1994, University of Kentucky
J.D., 1998, University of Kentucky
College of Law
L.L.M., 2000, Loyola Chicago
Initial appointment date: January 12, 2007

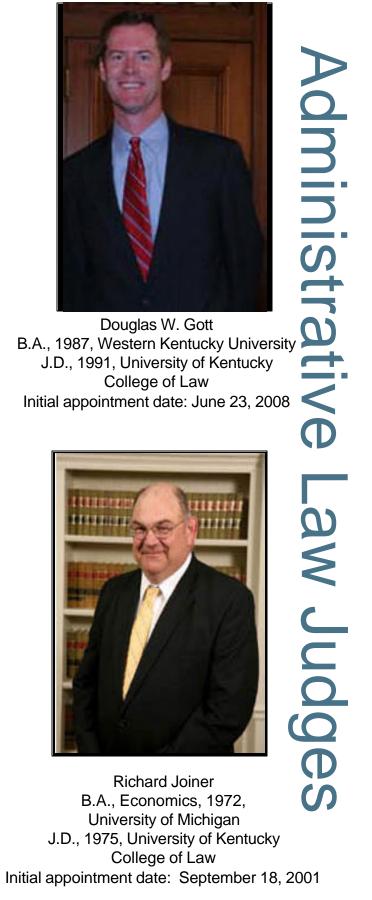


Howard Fraiser B. A., 1984, David Lipscomb College J.D., 1987, University of Kentucky College of Law Initial appointment date: February 12, 2004



Edward D. Hays B.A., 1970, University of Kentucky J.D., 1973 University of Kentucky College of Law Initial appointment date: August 1, 2008





College of Law Initial appointment date: September 18, 2001



Joseph W. Justice B.A., 1958, University of Kentucky J.D., 1962, University of Kentucky College of Law Initial appointment date: July 15, 2008



James Kerr
B.A. ,1973, Northern Kentucky University
M.B.A., 1975, Xavier University
J.D.,1983, Salmon P. Chase College of Law
Ed.D., 1983, University of Cincinnati
Initial appointment date: May 1, 1992



J. Landon Overfield
B. A., Political Science, 1970,
University of Kentucky
J.D., 1972, University of Kentucky
College of Law
Initial appointment date: November 15, 1994



Grant Roark
B.S., 1992, University of Kentucky
J.D., 1995, University of Louisville
College of Law
Initial appointment date: February, 2004

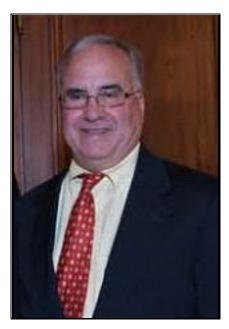
Administrative Law Judges



Lawrence F. Smith B.S. Ed, 1970, Ohio University J.D., 1973, Case Western Reserve University School of Law Initial appointment date: December 15, 2003



Irene Steen
B.S., Medical Technology, 1972,
University of Kentucky,
J.D.,1975, University of Kentucky
College of Law
Initial appointment date: May 1990



Otto Daniel Wolff IV B.A., 1970, University of Cincinnati J.D. 1974, University of Cincinnati Initial appointment date: July 15, 2008

Administrative Law Judge Activity

Under the guidance and supervision of the Chief Administrative Law Judge, the ALJs oversee the adjudication of claims filed with the Department of Workers' Claims. The ALJs are required to conduct benefit review conferences and formal hearings in these claims. Thereafter, they are required to issue decisions in the claims within 60 days after the date of the hearing. These decisions must contain findings of fact and rulings of law and are subject to appeal to the Workers' Compensation Board, Court of Appeals and the Supreme Court.



Benefit review conferences and hearings are held at the 13 hearing sites in Kentucky maintained by the Department of Workers' Claims. These hearing sites are located in Ashland, Bowling Green, Florence, Frankfort, Hazard, Lexington, London, Louisville. Madisonville, Owensboro, Paducah, Pikeville and Pineville.

During the past fiscal year, the ALJs presided at 4,808 benefit review conferences. A substantial number of those cases were settled. Formal hearings were held in the remainder. The ALJs presided at 2,011 formal hearings and issued 1,740 opinions. The ALJs also participated in two training sessions and attended and/or made presentations to various seminars and groups on workers' compensation topics.

Attorney Fees Awarded During FY 2007-2008					
	Number of Fees Approved	Total Fees Awarded	Average Fee		
Plaintiff	4,464	\$18,484,590.60	\$4,140.81		
Defense	3,118	\$12,936,863.03	\$4,149.09		

Case Summaries

Summary of FY 2007-2008 Published Kentucky Supreme Court Workers' Compensation Cases

Southeast Coal v. Mansfield, 231 S.W.3d 122 (Ky. 2007)

Subject: Enforcement of Award

The circuit court in the county where an injury occurs is the sole forum for enforcing an award.

Hubbard v. Henry, 231 S.W.3d 124 (Ky. 2007)

Subject: Employer/Employee

A claimant who performs work on a trial basis is an employee despite a lack of a formal contract for hire unless the circumstances indicate the work was performed with no expectation of payment or the worker was a prisoner.

Bolin v. T & T Mining, 231 S.W.3d 130 (Ky. 2007)

Subject: Pneumoconiosis

The additional two year exposure requirement for reopening a pneumoconiosis award applies not only to awards of retraining incentive benefits, but also to awards of income benefits.

Sidney Coal Co., Inc./Clean Energy Mining Co. v. Huffman, 233 S.W.3d 710 (Ky. 2007)

Subject: Final and Appealable

A decision of the Board that permits an ALJ to enter a different award on remand after analyzing an issue is final and appealable.

Russellville Warehousing v. Bassham, 237 S.W.3d 197 (Ky. 2007)

Subject: Mistake

Evidence developed subsequent to an award that would indicate a finding in the award was mistaken does not constitute a "mistake" within the meaning of KRS 342.125 for purposes of reopening.

<u>University of Kentucky Family Practice v. Leach</u>, 237 S.W.3d 540 (Ky. 2007) Subject: Limitations

Where substantial evidence indicated work performed within two years before the claim was filed exacerbated a pre-existing work-related injury producing symptoms that required medical treatment, the statute of limitations did not bar a claim for medical benefits.

Summary of FY 2007-2008 Published Kentucky Supreme Court Workers' Compensation Cases

Ramsey v. Sayre Christian Village Nursing Home, (Ky. 2007)

Subject: Reopening

Where a claimant failed to assert entitlement to medical benefits for depression that was known to her at the time she prosecuted her claim, she was not entitled to raise the matter on reopening more than two years later. It could not reasonably be inferred the ALJ intended the original award of medical benefits to include treatment for depression.

Bartee v. University Medical Center, 244 S.W.3d 91 (Ky. 2008)

Subject: Reopening

A reopening by the employer to contest liability for surgery does not, by itself, place the issue of entitlement to TTD before the ALJ. Failure to move to reopen until after the period of TTD expired precluded an award of TTD.

Chaney v. Dags Branch Coal Co., (Ky. 2008)

Subject: Safety Violation

The intent to violate a statute or regulation is inferred from a failure to comply because the employer is presumed to know what state and federal statutes and regulations require.

Morsey Inc. v. Frazier, 245 S.W.3d 757 (Ky. 2008)

Subject: Death Benefits

Benefits would terminate at age 60 on the date the widow qualifies for Social Security benefits as a widow, not the date she would have qualified as the worker's wife at age 62.

Officeware v. Jackson, 247 S.W.3d 887 (Ky. 2008)

Subject: Reopening

Amendment permitting reopening at any time upon proof that injury causes TTD applies to all claims irrespective of the date of injury.

Miller v. Square D Co., 254 S.W.3d 810 (Ky. 2008)

Subject: Multipliers

When an employee performs multiple jobs for the same employer, entitlement to the 3x multiplier pursuant to KRS 342.730(1)(c)1 is determined based upon the worker's ability to perform the duties involved in all of the jobs.

Claims Processing & Appeals

The Division of Claims Processing and Appeals wishes to take the mystery out of the claims process and to continually improve our services. In an effort toward these goals, we have updated the Web site, http://www.labor.ky.gov/workersclaims/claimsprocessing/; to illustrate a directory of our division when callers or e-mailers need assistance; to provide an overview of each section denoting their specific duties; to summarize the most frequently asked questions; and to make available the necessary forms for filing.

The changes for fiscal year 2007-2008 revolve around the method by which Claims are processed within our Division. In previous years the Department of Workers' Claims has had a single section (Claims Assignment) that encompassed various duties from beginning to end with all new applications for resolution of injury, occupational disease, coal workers' pneumoconiosis, hearing loss claims and the notices/motions relevant to those claims. In order to gain more focus and better coverage of these duties, this large section was split into two new sections in June 2008: Claims Review Section, and Claims Assignment Section. The new Claims Review Section focuses on the preparation work of all claims so that they are ready for assignment to an Administrative Law Judge. The new Claims Assignment Section is responsible for assignment of each new claim/reopening/medical fee dispute, and processes relevant to those claims while in litigation (including scheduling rooms and Court Reporters for each of our 13 Hearing locations across the state of Kentucky). This new 'dual' section approach to Claims Processing has benefited the Commonwealth by increasing efficiency and providing better overall service. We continue to move our efforts toward crosstraining to allow assistance to be distributed throughout the division where there is a need.

We are working to do our part to lessen the stress for the worker and employer, decrease the time for processing, increase the efficiency, help with the mystery and finish the course.

Claims Processing & Appeals

The Division of Claims Processing and Appeals is not only the beginning point for disputed claims, but also for the many transactions that must occur on the claim's path to resolution, as well as the resting place of the closed file.

Within this Division, the **Claims Processing Branch** is charged with the timely processing and assignment of applications for resolution – for an injury; an occupational disease including pneumoconiosis; a hearing loss; a chiropractic peer review; an order for an attorney fee; and an official agreement/settlement of any type. Furthermore, arrangements for the Benefit Review Conferences with each of the 16 Administrative Law Judges; the scheduling of the Court Reporters; the maintenance of the Frankfort Motion Docket for the Chief Administrative Law Judge; the medical fee disputes/reopenings; and, the auditing as well as the purging of the resolved files are just some of the additional responsibilities performed.

The **Appeals Section** is the other major area of concentration within this Division. The final awards, orders and decisions from the Administration Law Judges that are challenged must pass through this section to verify timeliness of filings, completeness of records, indexing, scheduling and certification - all in preparation for the Workers' Compensation Board's (WCB) review and judgment. If the appeal continues, then section staff readies the files for the Court of Appeals and if necessary, the Supreme Court. Motions are tracked daily and a docket is prepared weekly. All decisions, opinions and orders originating from the WCB, the claims routed to the Court of Appeals or to the Supreme Court are catalogued into a database to ensure timeliness and accurate record keeping.

The Claims Processing Branch consists of the Agreement Section, the Case Files Section, the Claims Assignment Section, and the Docket Section. Each of these areas of expertise has submitted the following data for the fiscal year 2007 – 2008.

The Agreement Section receives and processes settlement agreements, attorney fees, and motions to substitute party for widows' benefits. In addition, motions and agreements are prepared on a daily basis for submission to the Frankfort Agreement Docket for rulings to be made by the Chief Administrative Law Judge (CALJ). Section staff received and processed 4,445 first report agreements; 785 unassigned claim/ reopening agreements (medicals and lump sums of remaining benefits); 1,266 motions for attorney fees; and 151 motions to substitute party/widow's benefits for this fiscal year.

The **Case Files Section** receives and processes unassigned motions to reopen, motions for attorney fees, miscellaneous motions and prepares them for assignment to the Docket Section. Many are routed back to case files for further assignments. This section houses, maintains and oversees a crucial file tracking system, serves as the custodian for all exhibits and x-rays filed with claims and also audits/purges the files after a final decision has been rendered. The Case Files Section received 2,353 new motions, checked in and audited 5,905 files and purged 6,379 files.

In previous years, the Department of Workers' Claims has had a single section (Claims Assignment) that encompassed various duties from beginning to end with all new applications for resolution of injury, occupational disease, coal workers' pneumoconiosis, and hearing loss claims. It also processed the notices/motions relevant to those claims. In order to gain more focus and better coverage of these duties, this large section was split into two new sections in June 2008: Claims Review Section, and Claims Assignment Section. The new Claims Review Section focuses on the preparation work of all claims getting them ready for assignment to an Administrative Law Judge. The new Claims Assignment Section is responsible for assignment of each new claim, reopening, and medical fee dispute. It processes most activities relevant to those claims while in litigation (including scheduling rooms and Court Reporters for each of our 13 hearing sites across the state of Kentucky). This new approach to Claims Processing has benefited the Commonwealth by increased efficiency and better service overall. For fiscal year 2007-2008 the Claims Review and Claims Assignment Staff processed 4,015 new claims (78 of these were Coal Workers' Pneumoconiosis or CWP claims) and assigned 4,917 files including 1,102 cases from the motion docket to the Administrative Law Judges for a benefit review conference.

In years past, the **Docket Section** prepared motions in cases which had not been permanently assigned to a law judge and placed them on the Frankfort Motion Docket for ruling by the CALJ. These duties, beginning May 2008, are now overseen by the staff within the Chief ALJ's office. The section staff attended each of the 47 dockets that were held during this fiscal year to provide assistance, record, and follow through on each of the 3,212 motions ruled upon by the Chief ALJ.

The Appeals Section, an integral part of the Claims Processing and Appeals Division, readies the appeals from the Administrative Law Judge decision to the Workers' Compensation Board (WCB), Court of Appeals and Supreme Court. Statutes and regulations require the timely filing of motions, briefs and petitions with regard to appeals as well as the aforementioned claims. The personnel in this branch monitor and track all filings with their own database and hard copy files. They compile, index and transfer workers' claims files to the WCB and Court of Appeals, concluding with the filing and entering of all subsequent orders and opinions rendered by the Board and appellate courts.

The Appeals Section prepared 334 appeals to the WCB during fiscal year 2007–2008 and received final disposition orders on 80 claims. The Board issued a total of 327 opinions. The Honorable John Gardner rendered 114 opinions; the Honorable Bruce Cowden rendered 109 opinions and the Honorable Franklin Stivers rendered 104 opinions. A total of 407 cases were completed by the WCB during this fiscal year, either by opinion or final disposition order.

One hundred four petitions for review were filed with the Court of Appeals. One hundred records were prepared, indexed and transferred to the Court of Appeals by section staff, with the court rendering 109 opinions and six final orders. Additionally, there were 56 appeals to the Supreme Court with the court rendering 51 opinions and seven final orders during this time period.

Information and Research

The duties of the Division of Information and Research include collection, storage and retrieval of data and the dissemination of information. The Division of Information and Research is organized into two branches, the Records Branch and the Imaging Branch. The Records Branch is primarily responsible for data entry, Electronic Data Interchange (EDI), coding, publications, specific data extrapolation associated with open records requests and ensuring the validity and integrity of the DWC's databases. The duties of the Imaging Branch consist of imaging and verifying all hard copy documents as well as indexing them into the DWC's integrated information and optical image system. The Imaging Branch also responds to requests for claim and first report information as well as open records requests.

rograms Performance

Records Branch

The Records Branch is a fundamental part of the Department of Workers' Claims (DWC) and is divided into three sections: Data Entry, Electronic Data Interchange (EDI), and the Research Section. These sections combine to ensure reliability, accuracy and integrity within the data that is submitted to the DWC.

The Data Entry Section receives and processes incoming mail, sorting and counting by document type. This section receives 90 percent of the documents filed with the DWC. This includes interpretation of orders prepared by the Administrative Law Judges (ALJs) and pleadings filed by the attorneys. Section staff are charged with the responsibility of updating the database with approximately 350 active status codes, 53 dispositions and more than 100 variables. All these combine to give more details regarding the status of a claim. These codes are used by specialists to ensure quality assistance to claimants, attorneys, employers and carriers. During this reporting period, the data entry section received 95,169 pieces of mail, 29,665 orders from the ALJs, 1,761 awards

and opinions as well as 2,608 docket orders. Each document receives personal attention to ensure that the data coming into the department is legitimate.

The Electronic Data Interchange (EDI) system is used by carriers and self-insured employers to report data electronically. This system has been used by Kentucky since 1996. The information transferred via EDI is monitored and coded by the EDI **Section**. There are over 10,000 codes available for submitting specific information about each injury. This information is used for tracking purposes and as system triggers for issuing statute of limitations letters based on the date of injury or last receipt of temporary total disability benefits. Section staff manually enter first report information from the application in the event a claim is filed on an injury or occupational exposure that hasn't been previously reported. This ensures that the agency's records are complete and there is no interruption in workflow. Information compiled by this section is utilized through

the department as the claim progresses throughout the adjudication process. During this fiscal year, the EDI section received 35,958 first reports through the EDI system, manually added 1,656 injury reports and completed 998 change forms.



The Research Section of the Records Branch conducts intricately specialized injury and industry research by collecting, reviewing and comparing data that is relevant to workers' compensation issues and the Kentucky Department of Workers' Claims. Complex Structured Query Language (SQL) queries are written to extract the data from the agency's SIMBA (Server Based System for Information Management and Business Applications) system. Section staff are familiar with the 89 tables that are housed in the SIMBA database as well as the codes, current as well as historical, that are used by the Data Entry and EDI Sections to identify each specific document type and maintenance type transaction code. Reports are formatted to answer in depth open records requests and to monitor agency, carrier and employer performance. This data is highly beneficial when it comes to exploring areas of legislative interest.

Statistical reports and analysis by the research staff are gathered/processed from accessing the first reports of injury, the subsequent reports of Injury and various other DWC databases. During this time period, the Research staff updated the agency's Workers' Compensation Guidebook, as well as updated the Vocational Rehabilitation Poster for web publishing due to outdated information on the previous poster.

A few examples of research, analysis and compilation of duties of the section staff include the DWC's Annual Report, the Quarterly Activity Reports and the Workers' Compensation Guidebook, all of which are currently being printed in house in an effort to assist with budget constraints. Research and data extraction is often requested by the public as well as governmental entities, health care representatives, attorneys, the media and legislators. The results attained by the research staff are used in a variety of ways: to assist in claim filing, to prepare for safety

training programs and to update state and national data banks. Additionally, information sharing agreements are held with a variety of other state agencies; i.e., Medicaid, Revenue, Retirement and the Office of Insurance.

The Research Section compiles, designs and edits a variety of department publications, in addition to monitoring the agency's statistical progression. The Quarterly and Annual Reports, Workers' Compensation Guidebook, Legislative Change Brochures and Retraining Incentive Benefits Posters are essential in aiding constituents and the public to understand the complex system of workers' compensation. These publications are produced for print and also by web publishing.

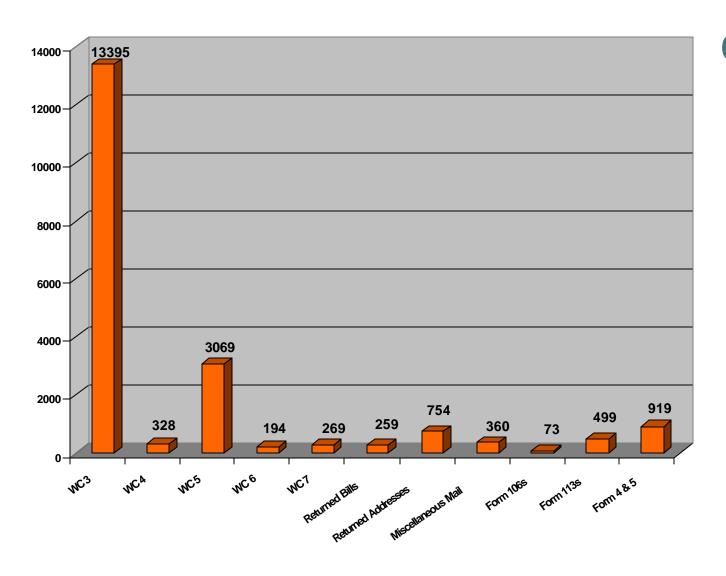
In addition, staff maintains, manages and enhances the Department of Workers' Claims Web site and creates powerpoint presentations for in-house personnel.

The Research Section also aids the Design and Development Section, Data Entry and EDI Sections in maintaining data integrity. Section staff often identify inconsistencies within the data that are not apparent to average users. This results in the development of stronger edits, data clean-up queries being generated and disseminated to resolve such situations.

This fiscal year, the Research Section focused on carrier performance as it relates to timely filing of first reports, initial payment of benefits and termination of benefits to ensure that carriers are filing their information in a timely fashion. These reports are based on data submitted through EDI and are dependent upon the integrity of the information submitted by the carrier. The Research Section was able to provide detailed information on 21 different insurance carriers during this fiscal year.

During this time period, the Research staff processed statute letters (WC letters) and returned mail as well as assisting Open Records with mail outs. WC letters are sent out for a variety of reasons: benefits terminated, untimely filing, denials, and fatality letters. The mail totals for this fiscal year are outlined in the following chart.

Distribution of Mail - Research Section



The Imaging Branch

The Imaging Branch is now comprised of two sections, Scanning and Open Records. The Scanning section is responsible for scanning and verifying all hard-copy documents and indexing them into the agency's integrated imaging system. This fiscal year, 204,805 documents equaling 1,652,450 pages were scanned. Micrographics equipment is located within the branch offices and is available for use by agency staff as well as the general public. The number of microfilm pages printed from these machines during this time period totaled 178,730 pages. Other responsibilities of this branch include document retention and destruction. All



documents are maintained in accordance with the Department for Library and Archives retention schedule.

The Open Records Section was made part of the Imaging Branch on June 16, 2008 as a result of Governor Beshear's reorganization. Open Records staff are charged with the responsibility of responding to requests for claim and first report information pursuant to KRS 61.872(2). Requests for prior claim history are received from a variety of outside parties including attorneys, insurance carriers, employers, the Social Security Administration and the general public. During the 2007-2008 fiscal year, 12,742 written requests, 9 walk in requests and 387 requests from the Social Security Administration were received. In

addition to producing hard copy records, oral testimony and certifications are also provided by this section upon request. Available to prospective employers through the Open Records section is a service of pre-employment screening. Pre-employment requests are only granted after the Department of Workers' Claims has received a written request, accompanied by a signed employee authorization form. Pre-employment inquiries totaled 19,702 coming in as the most frequently requested material. The amount of money received by the open records section this fiscal year was \$116,532.66.

Pursuant to KRS 150.170, the Open Records section also verifies workers' compensation awards for the Department of Fish and Wildlife for individuals applying for free hunting and fishing licenses. This reporting period, there were 52 applications processed.

Security & Compliance

The focus of this division is to ensure that non-exempt employers maintain workers' compensation coverage for their employees. This division is comprised of three branches. The Self-Insurance Branch audits the individual self-insured employers' claim files, monitors their financial strength and determines the surety requirements necessary to secure benefits for the self-insured employers' workforce. The Coverage Branch maintains records to document proof of coverage for each insured Kentucky employer. The Enforcement Branch investigates the status of Kentucky employers' insurance coverage through on-site visits to encourage compliance with the workers' compensation act, ensuring that workers within the Commonwealth are protected in the event of a workplace accident.

Self-Insurance Branch

Individual Self-Insurers —At the end of the fiscal year there were 157 individual self-insured companies, six of which were on the self-insurance watch list.

No current or former self-insured companies declared bankruptcy during this reporting period.

The actuarial model used to establish surety amounts for the self-insured employers was reviewed and updates were made to the development factors and to a portion of the program logic. The model was also modified to allow auditors to enter factors that address financial strength of a self-insured and a factor that reflects the degree of hazard employees of a self-insured employer face. The actuarial model will be reviewed each year to ensure the accuracy of the factors being utilized.

There were 182 surety requirement audits and 52 reserve audits conducted during this fiscal year. To date, 275 reserve audits have been conducted. The DWC continues to review the practices of the self-insured companies to assure that adequate reserves are being reported. In addition, reviews have been performed to assist the DWC in determining when a surety reduction requested by a former self-insured is or is not warranted.

Coverage Branch

The Coverage Branch receives information through the Electronic Data Interchange (EDI) documenting proof of workers' compensation coverage from each carrier and self-insured group fund, for employers covered by the workers' compensation act.

An estimated 294 insurance companies, including the competitive state fund Kentucky Employers Mutual Insurance Company (KEMI), insured the Commonwealth's employers during this fiscal year. Carriers submit required Proof of Coverage information through one of the state approved data collection agents. There are three (3) data reporters approved to submit proof of coverage: Workers' Comp-Link, Claimport (ISO), and National Council on Compensation Insurance (NCCI). KEMI and Kentucky Employers Safety Association (KESA) are approved for direct filing of Proof of Coverage to the Department.

Data is received by a master database maintained by the Coverage Branch. The Coverage Branch processed 253,501 transactions during the fiscal year received from carriers. Of the 253,501 transactions received: 35% or 87,778 auto processed, an increase of 22% over last year, 5% or 13,845 rejected, a decrease of 28% over last year, and 60% or 151,878 manually processed, a decrease of 10% over last year.

The branch revised coverage transaction processing procedures during the 2007-2008 fiscal year. These changes have resulted in the improvement of the number of transactions which are automatically processed and a decrease in the number of transactions that are rejected.

Certifications of coverage; monitoring of "Wrap-up" construction projects; registration of employee leasing organizations; and other special projects complete the responsibilities that are part of normal day-to-day operations.

Enforcement Branch

The role of the Enforcement Branch is to assure employers subject to the Workers' Compensation Act comply with statutory requirements. This is achieved several ways. To facilitate timely compliance, enforcement officers make random on-site visits to Kentucky businesses to verify compliance. This is the most frequent type of contact. Officers also investigate leads generated by in-house personnel, complaints, and injury claims (Uninsured Employers Fund) reported through various sources. In addition, the branch encourages timely compliance through educational initiatives. Enforcement officers are assigned to field offices across the state. They use mobile computers to record information at the point of investigation. Completed investigations are electronically transmitted to the Frankfort office where they are received into a database for appropriate action.

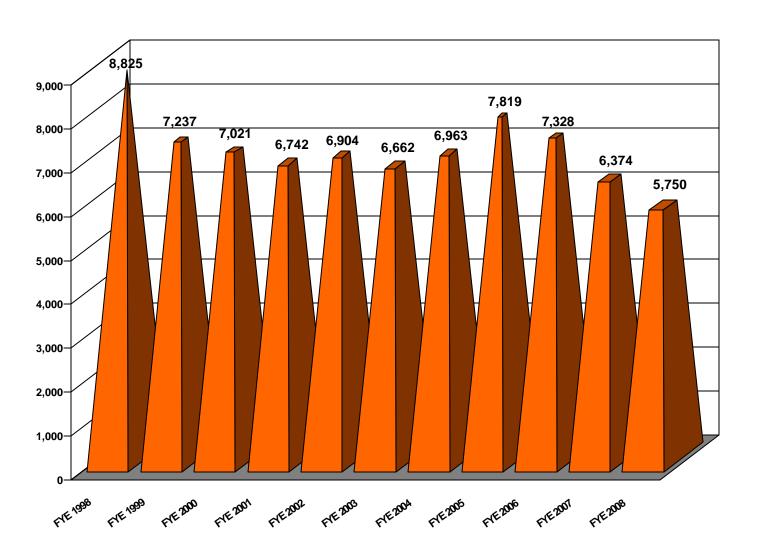
Officers' non-compliant investigations are prepared for the Commissioner's review. The statute authorizes the Commissioner to cite non-compliant employers and issue penalties. Approved citations are then delivered to the employer. The branch logs and processes citations through the legal tracking system. Collected penalties are also recorded in this system. In accordance with the statute, penalties are forwarded to the Workers' Compensation Funding Commission. When necessary, officers testify and present evidence in official proceedings.

During this fiscal year, the branch's enforcement officers conducted 10,415 on-site inspections of Kentucky businesses. As a result, the Commissioner issued 966 citations to non-complying employers. The branch collected \$1,061,323.70 from assessed penalties. For comparative purposes, the following chart breaks down investigations and citations issued to non-complying employers during the previous six years.

Investigation Analysis Fiscal Years 2003-2008							
FY 02-03 FY 03-04 FY 04-05 FY 05-06 FY 06-07 FY 07-08							
Number of Investigations	10, 095	8,993	10,474	7,797	10,049	10,415	
Number of Citations	447	709	1,142	1,052	1,000	966	
Penalties Collected	\$296,609	\$388,826	\$737,755	\$1,192,471	\$1,362,754	\$1,061,324	

The branch also has the responsibility to maintain the filing of Employee's Written Notice of Rejection of the Workers' Compensation Act (Form 4). An employee may waive the right to protection under the Act by filing this notarized form with the Department of Workers' Claims. In Fiscal Year 2007-2008, the branch received and filed 5,750 Form 4s. The chart below shows the number of employees rejecting coverage has remained relatively constant for the past 10 years with a reduction for each of the past three fiscal years.

Employee's Written Notice of Rejection filed with the Department of Workers' Claims



Constituent Services

The Division of Ombudsmen and Workers' Compensation Specialists provides a centralized source of information and assistance. In addition to the Ombudsmen and the Workers' Compensation Specialists Services sections, the Medical Services section and Vocational Rehabilitation Services section are included in this division.

This Division maintains toll free telephone lines to assist citizens in workers' compensation matters by answering questions, providing information and attempting to resolve conflicts. Information is also available on the Department of Workers' Claims Web site at www.labor.ky.gov/workersclaims.

The Division of Ombudsmen and Workers' Compensation Specialists Services is headed by Lucretia Johnson, Division Director and the Honorable John Mann, Chief Specialist.

The Medical Service section's primary focus is on cost containment. This section approves utilization review and managed care plans, maintains the hospital fee schedule and medical fee schedule for doctors. This section also schedules university and "B-reader" evaluations.

The Vocational Rehabilitation Services section includes retraining and job placement opportunities for the injured workers.

Ombudsmen and Workers' Compensation Specialist Branch

Established in 1994, the Ombudsmen and Workers' Compensation Specialist Branch is now in its' fourteenth year of operation. The branch currently employs 10 workers' compensation specialists throughout the state – six in Frankfort and the remaining four in branch offices in Louisville and Pikeville.

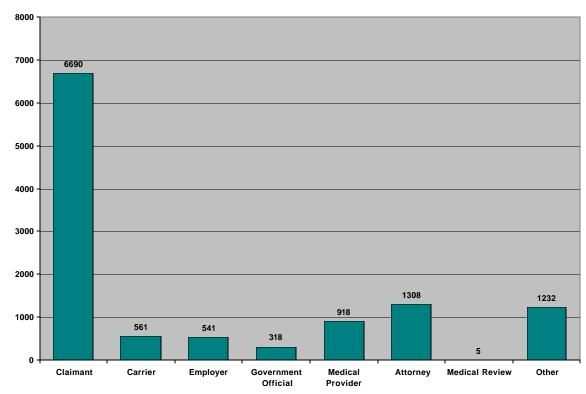
Toll-free telephone assistance is available to callers on all workers' compensation topics of interest to the public including how to report or file a claim, dispute resolution, benefit information, rights and procedures and other related issues. This branch also responds to constituent services requests from lawmakers and attorneys.



The primary daily activity of the workers' compensation specialists is to assist in the prompt delivery of benefits. This is done by facilitating communication and exchange of information between the injured worker and claims adjusters, employers and medical providers. Care is taken to remain impartial in dealings with all parties.

On occasions where a complaint is received that benefits are unreasonably denied or delayed, the branch's legal staff will initiate an inquiry as to whether an unfair claims settlement practice violation has occurred. The commissioner is authorized to fine an insurance carrier for such violations in the delivery of benefits. A total of 80 unfair claims settlement practice investigations were opened by staff for the past fiscal year. Thirty of these were forwarded to General Counsel with recommendations for citation.

During the 2007-2008 fiscal year, the Division of Ombudsmen and Workers' Compensation Specialist Services continued to be proactive in providing assistance and information. They responded to 11,573 requests. Most requests for assistance were completed within a week of initial contact. The chart below reflects a breakdown on the sources of those requests.



Breakdown of Assistance

The table below outlines the subject matter of these requests. The category represented by 'Other' includes such things as the attorney of record, current mileage rate, carrier/insurance agent and questions of a general nature.

Topic	Number of Calls
Rights and Procedures	5421
Claims Status Request	1660
Coverage	844
Other	2445
Form Request	593
Referrals to Outside Agencies	248
First Report of Injury	419
Medical Fee Schedule	25
Claim Filing Assistance	144
Medical Fee Dispute	112
Unfair Claims Settlement Practice Investigation	117
Utilization Review	79
Fraud	44
Managed Care	15
Rehabilitation	7

Drug-Free Workplace

803 KAR 25:280 certification of drug-free workplace, became effective June 6, 2008. This regulation sets forth the requirements for employers to obtain a certification of a drug-free workplace.

This voluntary program allows employers to submit applications for certification to the Department of Workers' Claims. If the application is approved, the employer may be eligible for a 5% discount on their workers' compensation insurance premiums.

Requirements for a drug-free workplace include alcohol and substance abuse education and awareness training for employees and supervisors. All employees shall receive written material explaining the employer's policies and procedures with respect to the drug-free workplace program. All records of drug and alcohol test results written or otherwise received by the employer shall be confidential and shall not be disclosed by the employer.

Medical Services Section

Cost containment and the administration of medically related services are the primary activities of this section of the Department of Workers' Claims. Responsibilities in this division this fiscal year included Managed Care Plans; Utilization Review Plans; University Evaluations; "B" Reader Consensus Panel; Medical Fee Schedules; and Cost Containment. A major project this fiscal year was the publication of the 2008 Kentucky Workers' Compensation Medical Fee Schedule for Physicians.

Managed Care

The Managed Care Section is responsible for approving and overseeing the operations of Managed Care Programs (MCPs) in Kentucky. During fiscal year 2007-2008, there were 38 approved managed care programs in operation.

Managed care regulates costs by utilizing gatekeeper and specialist physicians, precertification of services, aggressive case management and coordination of medical treatment and managed care programs in Kentucky. Assistance was offered to over 604 inquiries regarding managed health care plans during this time period.

Approximately 42% of Kentucky's workforce (excluding agriculture) participated in workers' compensation MCPs this year. The 38 MCPs that were operational covered approximately 6,712 employers and 808,375 employees.

On July 1, 2008 a statewide meeting was facilitated by Commissioner Dwight T. Lovan with managed care and network members to assist with compliance of the Kentucky statutes and regulations.

Fiscal Year	Number of Kentucky Jobs	Covered Lives	Percent in MC
1997-1998	1753400	721964	41%
1998-1999	1795800	681213	38%
1999-2000	1824500	542764	30%
2000-2001	1804700	600522	33%
2001-2002	1786100	531731	30%
2002-2003	1782900	499038	28%
2003-2004	1898952	647318	34%
2004-2005	1878341	783077	42%
2005-2006	1922163	699266	36%
2006-2007	1944983	700194	36%
2007-2008	1902517	808375	42%

Fee Schedules

Mandated by statutory requirements and implemented as a cost containment measure, the reimbursement fee schedules are routinely updated and distributed by the Department of Workers' Claims. These fee schedules set the limits of amounts physicians and hospitals can charge for treatment or services related to workers' compensation injuries.

2008 Physicians Fee Schedule

On July 31, 2008, the 2008 edition of the Kentucky Workers' Compensation Medical Fee Schedule for Physicians went into effect. It governs physicians' charges in Kentucky workers' compensation cases, utilizing updated coding (2008 CPT codes), procedure description updates, revised reimbursement values and ground rules. The 2008 Kentucky Medical Fee Schedule supersedes all prior fee schedules.

Hospital Fee Schedule

Per 803 KAR 25:091, the Kentucky Department of Workers' Claims is required to calculate adjusted "cost-to-charge' ratios for hospitals for each calendar year. The hospital fee schedule (cost-to-charge ratio) governs the reimbursement for hospital charges in workers' compensation claims and becomes effective by April 1st of each year. Calculations are determined by using applicable figures taken from each facility's cost reports (HCFA-2552) on file with the Cabinet for Health and Family Services. The Department of Workers' Claims promulgated the cost to charge ratio for 116 hospitals in FY 07-08. Out of state facilities, by regulation, are reimbursed in the same manner as Kentucky hospitals.

Utilization Review/Medical Bill Audit

Utilization Review/Medical Bill Audit is governed by 803 KAR 25:190 and is a review of the medical necessity and appropriateness of medical treatment and services. It was implemented as a cost-containment measure and for managing quality assurances in the delivery of medical services to injured workers.

Workers' compensation claims are automatically selected for utilization review when they meet the following criteria:

- Upon a medical provider's request for pre-authorization
- Upon notification of a surgical procedure
- When total medical costs exceed \$3,000
- When total lost work days exceed 30
- An Arbitrator or Administrative Law Judge orders a review

University Evaluations

During the 2007-2008 fiscal year, there were a total of 172 claims that were referred for university evaluations. One hundred forty two were scheduled at the University of Kentucky and 30 at the University of Louisville. Timely scheduling of university evaluations by the universities and preparing and sending reports are elements that are critical to the success of the program.

As mandated by KRS 342.315, the Department of Workers' Claims has contracted with the University of Kentucky and the University of Louisville medical schools to perform evaluations of employees with workers' compensation claims.

Occupational disease and hearing loss claims are referred for evaluations upon the filing of a claim for benefits. In injury claims, the Administrative Law Judge may order evaluations or they may be requested by the plaintiff or defendant and then referred by the Administrative Law Judge.

Examinations scheduled from 7/1/2007 - 6/30/2008:

	University of Kentucky	University of Louisville	TOTAL
Injury Claims	44	10	54
Hearing Loss Clai	ms 75	19	94
Pulmonary Claims	23	1	24
Total	142	30	172

B-Reader Consensus Panel and Black Lung

Black Lung claims (coal-related occupational pneumoconiosis) require a chest x-ray interpretation by a National Institute of Occupational Safety and Health (NIOSH) certified "B" reader. If the interpretations filed by each party are not in consensus, the claim is forwarded for panel processing. In 2007-2008, there were 51 Black Lung claims referred for the panel process. The Department of Workers' Claims is required to maintain a list of certified "B" readers. Medical Schedulers are responsible for processing the random selection of "B" readers, sending x-rays to the chosen panel of three and recording and maintaining all reports.

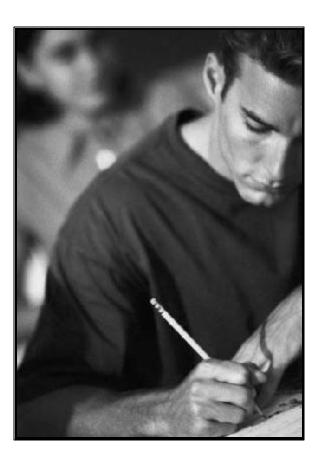
Vocational Rehabilitation Section

KRS 342.710 provides retraining benefits for those who are unable to perform work for which they have previous training or experience, because of the effects of work related injuries.

In FY 2007-2008, the Vocational Rehabilitation Section opened 110 new cases. Of these, 66 were ordered by an Administrative Law Judge. Twenty-seven claimants requested training during this time.

The focus of today's Rehabilitation Section is early identification of vocational rehabilitation candidates.

Injured workers seeking vocational rehabilitation may be referred for a vocational evaluation and can be tested near their home in one of 15 authorized Vocational Evaluation Facilities located throughout the state.



SCHEDULE OF WEEKLY WORKERS' COMPENSATION BENEFITS

TYPE OF DISABILITY SECTION OF STATUTE		FOR INJI	JRIES OCCU	RING		
<u>OCOMON OF GTATOTE</u>	01-01-03 thru	01-01-04 thru	01-01-05 thru	01-01-06 thru	01-01-07 thru	01-01-08 thru
APPLICABLE AVERAGE WEEKLY WAGE OF THE STATE	\$571.42 (2001)	\$588.43 (2002)	\$607.23 (2003)	\$631.22 (2004)	12-31-07 \$646.47 (2005)	\$670.02 (2006)
DEATH (KRS 342.750) a. Widow or widower with no children-50% of average weekly wage of deceased-subject to the following: MAXIMUM MINIMUM	\$285.71	\$294.22	\$303.62	\$315.61	\$323.24	\$335.02
	114.28	117.69	121.45	126.24	129.29	134.00
b. Widow or widower with children living in the home- 45% of average weekly wage of deceased, plus 15% for each child-subject to the following: MAXIMUM MINIMUM	\$428.57	\$441.32	\$455.42	\$473.42	\$484.85	\$502.51
	114.28	117.69	121.45	126.24	129.29	134.00
c. Widow or widower with children not living in home-40% of average weekly wage of deceased, plus 15% for each child-subject to the following: MAXIMUM MINIMUM	\$428.57	\$441.32	\$455.42	\$473.42	\$484.85	\$502.51
	114.28	117.69	121.45	126.24	129.29	134.00
d. One child, no widow or widower 50% of average weekly wage of deceased-subject to the following: MAXIMUM MINIMUM	\$285.71	\$294.22	\$303.62	\$315.61	\$323.24	\$335.02
	114.28	117.69	121.45	126.24	129.29	134.00
d(1)More than one child, no widow or widower-50% of average weekly wage of deceased for the first child with an additional 15% of average weekly wage of deceased for each additional child-subject to the following:						
MAXIMUM	\$428.57	\$441.32	\$455.42	\$473.42	\$484.85	\$502.51
MINIMUM	114.28	117.69	121.45	126.24	129.29	134.00
e. Dependent parents- 25% of average weekly wage of deceased to each parent- subject to the following: MAXIMUM MINIMUM	\$428.57	\$441.32	\$455.42	\$473.42	\$484.85	\$502.51
	114.28	117.69	121.45	126.24	129.29	134.00
f. Dependent brothers, sisters, grandparents and grandchildren-25% of average weekly wage of deceased to each dependent-subject to the following: MAXIMUM MINIMUM	\$428.57	\$441.32	\$455.42	\$473.42	\$484.85	\$502.51
	114.28	117.69	121.45	126.24	129.29	134.00

The above is subject to the maximum of 75% of the average weekly wage of the deceased.

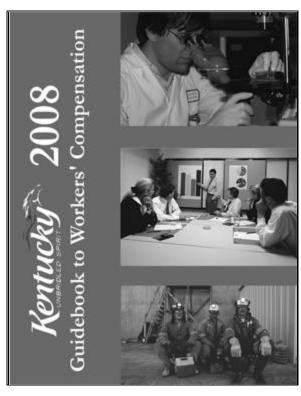
SCHEDULE OF WEEKLY WORKERS' COMPENSATION BENEFITS

TYPE OF DISABILITY						
SECTION OF STATUTE	FOR INJURIES OCCURING					
	01-01-03 thru 12-31-03	01-01-04 thru 12-31-04	01-01-05 thru 12-31-05	01-01-06 thru 12-31-06	01-01-07 thru 12-31-07	01-01-08 thru 12-31-08
LUMP SUM DEATH BENEFIT KRS 342.750(6)	FC 100 4F	EZ 700 24	E0 64E 07	62,002,42	62 500 27	CE 042 C
TEMPORARY AND PERMANENT TOTAL KRS 342.730(1)(a) 66 2/3% of average weekly wage of employee-subject to the following: MAXIMUM (100% AWW) MINIMUM (20% AWW)	\$571.42 114.28	\$588.43 117.69	\$607.23 121.45	\$631.22 126.24	\$646.47 129.29	\$670.02 134.00
RETRAINING INCENTIVE BENEFITS KRS 342.732(1)(a) 66 2/3% of average weekly wage of employee-subject to the following:	Э					
MAXIMUM (75% AWW) MINIMUM	\$428.57 NONE	\$441.32 NONE	\$455.42 NONE	\$473.42 NONE	\$484.85 NONE	\$502.51 NONE
PERMANENT PARTIAL FOR INJURIES OCCURING AFTER 12-11-96 KRS 342.730(1)(b), (1)(c)2,&(1)(d) 99% of 66 2/3% of average weekly wage of employee subject to the						
following: MAXIMUM (75% AWW) MINIMUM	\$428.57 NONE	\$441.32 NONE	\$455.42 NONE	\$473.42 NONE	\$484.85 NONE	\$502.51 NONE
PERMANENT PARTIAL FOR INJURIES OCCURING AFTER 12-11-96 KRS 342.730(1)(c)1,& (1)(d) When the employee does not retain physical capacity to return to type of work performed at time of injury- 99% of 66 2/3% of average weekly wage of employee subject to the						
following: MAXIMUM (100% AWW) MINIMUM	\$571.42 NONE	\$588.43 NONE	\$607.23 NONE	\$631.22 NONE	\$646.47 NONE	\$670.02 NONE

Publications

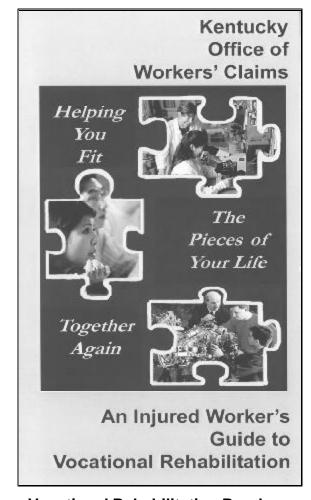


Coal Workers' Pneumoconiosis
Poster



Workers' Compensation Guidebook

These publications may be accessed through the agency Web site at http://www.labor.ky.gov/workersclaims or by calling the Department of Workers' Claims at 800-554-8601.



Vocational Rehabilitation Brochure

Key Personnel*

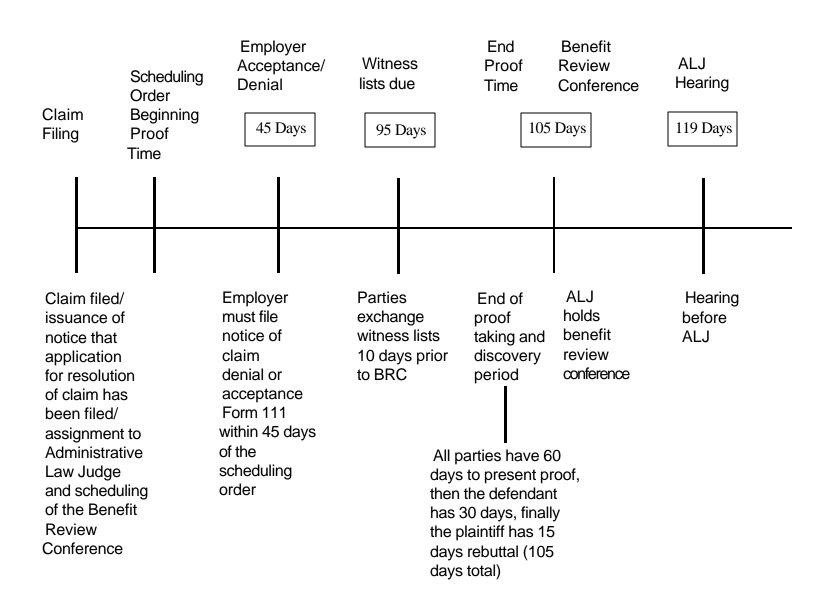
* at end of fiscal year

Dwight T. Lovan, Commissioner	(502) 564-5550, Ext. 4439
Philip A. Harmon, Deputy Commissioner	(502) 564-5550, Ext. 4412
Wayne Logan Office of Administrative Services	(502) 564-5550, Ext. 4428
Donna H. Terry Chief Administrative Law Judge	(502) 564-5550, Ext. 4535
Carla H. Montgomery General Counsel	(502) 564-5550, Ext. 4464
Sharon Eastman Technical Support Section	(502) 564-5550, Ext. 4530
Jeremy King Design & Development Section	(502) 564-5550, Ext. 4415
Howard "Cam" Lawson, EDI Administrator	(502) 564-5550, Ext. 4486
Division of Claims Processing & Appeals Connie Morris, Claims Branch Manager Diana Morgan, Appeals Section Supervisor	(502) 564-5550, Ext. 4407 (502) 564-5550, Ext. 4457
Division of Information & Research Sheila Shouse, Records Branch Manager Carol Stevens, Imaging Branch Manager Ashley Estep, Open Records Supervisor Sharon Anderson, EDI Supervisor Kim McKenzie, Web Administrator	(502) 564-5550, Ext. 4483 (502) 564-5550, Ext. 4557 (502) 564-5550, Ext. 4429 (502) 564-5550, Ext. 4416 (502) 564-5550, Ext. 4484
Division of Ombudsmen & Medical Specialist Services Lucretia Johnson, Director John Mann, Attorney/Chief Specialist Toll Free Pam Knight , Medical Cost Containment Supervisor Carole Jacobs, Utilization Review Marilyn Thompson, Managed Care Carol Hughes, Rehabilitation Section Supervisor Tara Aziz, Drug Free Workplace Coordinator	(502) 564-5550, Ext. 4559 (502) 564-5550, Ext. 4532 (800) 554-8601 (502) 564-5550, Ext. 4449 (502) 564-5550, Ext. 4445 (502) 564-5550, Ext. 4539 (502) 564-5550, Ext. 4544 (502) 564-5550, Ext. 4555
Division of Security and Compliance Joe Peters, Coverage Branch Manager Steve Taluskie, Self-Insurance Branch Manager Tom Powell, Enforcement Branch Manager	(502) 564-5550, Ext. 4448 (502) 564-5550, Ext. 4452 (502) 564-5550, Ext. 4450

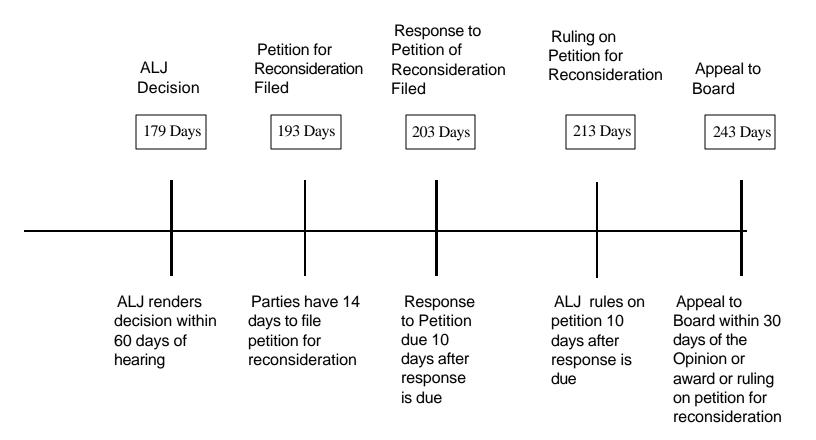
DWC Fax Numbers:

Commissioner's Office	(502) 564-5934	Claims	(502) 564-3792
Administrative Services	(502) 564-8250	EDI	(502) 696-5096
Ombuds & WC Specialist	(502) 564-9533	Security & Compliance	(502) 564-0916
Open Records	(502) 564-5732	WC Board Offices	(859) 246-2779
Medical Schedulers	(502) 564-5741	Vocational Rehabilitation	(502) 564-5741

Kentucky Workers' Adjudication



Compensation Timeline



No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Labor Cabinet.

This agency does not discriminate on the basis of race, color, national origin, religion, age or

This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provision of services.

